

APPEAL NO. 032189
FILED SEPTEMBER 24, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 25, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from April 18, 2002, through February 3, 2003.

The appellant (carrier) appealed on factual sufficiency of the evidence, contending that the claimant was a disgruntled worker who knew that his employment was about to be terminated and fabricated a workers' compensation claim. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he injured his low back moving or lifting 50-pound containers on _____. It is undisputed that the claimant reported the injury to his supervisor at the beginning of his next shift the same day. The claimant went to his treating doctor who took him off work. The claimant gave the off-work slip to the employer who sent the claimant to its doctor. According to the claimant, the employer's doctor told him that if the claimant would treat with him the doctor would assign light duty but if the claimant insisted on his own doctor he would be released to full duty. The medical evidence from the claimant's treating doctor, the referral doctor, the employer's doctor, and a carrier-required medical examination doctor had conflicting information. The hearing officer commented that the claimant "was credible in setting out the mechanism of injury" and commented on the various medical reports.

The questions of whether the claimant sustained a compensable injury and whether he had disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge